

**DISTRICT COURT OF THE UNITED STATES
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:18-cv-00403-FDW**

DONTRAY COLE,
Plaintiff,
vs.
FNU BENNETTE, et al.,
Defendants.

THIS MATTER is before the Court on periodic status review following the return of mail sent to Plaintiff's listed address as undeliverable and on Defendant Gregory Haynes' Motion for Status Update in his Answer to Complaint [Doc. 19].

Plaintiff's current address is reported on the docket as Lanesboro Correctional Institution, P.O. Box 280, Polkton, NC 28135. On May 14, 2019, the Court entered an Order holding that Plaintiff's allegations survived initial review against certain Defendants and requiring the Clerk to mail a summons form to Plaintiff to fill out and return to the Clerk for service of process on Defendant Prison Health Services. [Doc. 8]. On May 30, 2019, the Court received notice that this Court's Order was being returned as undeliverable to Plaintiff and that the Plaintiff had been released on May 15, 2019. [Doc. 11]. On August 21, 2019, after inadvertently failing to note that the Plaintiff had been released and with no notification from Plaintiff regarding his new address, the Court mailed Plaintiff a notice that the N.C. Prison Legal Services may be available to Plaintiff to assist him with discovery in this case [Doc. 15]. This Notice was returned undeliverable, without a forwarding address. Again, there was a notation that the Plaintiff had been released on May 15, 2019. [Doc. 17].

A plaintiff has the obligation to notify the Court of an address change. Plaintiff has failed to notify the Court of his change in address. Therefore, this action will be dismissed without prejudice for failure to prosecute. Accord Walker v. Moak, Civil Action No. 07-7738, 2008 WL 4722386 (E.D. La. Oct. 22, 2008) (dismissing without prejudice a § 1983 action for failure to prosecute under Rule 41(b) of the Federal Rules of Civil Procedure where the plaintiff did not notify the court of his new address upon his release from jail).

IT IS, THEREFORE, ORDERED that:

1. This action is dismissed without prejudice.
2. The Clerk is directed to terminate the case.

Signed: September 9, 2019



Frank D. Whitney
Chief United States District Judge

